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SUBJECT: 2007 COTE D'IVOIRE REPORT ON INVESTMENT DISPUTES AND
EXPROPRIATION CLAIMS

REF: STATE 55442

¶1. (SBU) Embassy Abidjan is aware of no new investment disputes or expropriation claims involving U.S. persons against the Government of Cote d'Ivoire.

¶2. (SBU) Post is pleased to report the end of the sole outstanding investment dispute reported from Cote d'Ivoire, the Cora de Comstar matter. On May 17, 2007, U.S. shareholders of Cora, which included Western Wireless and the Modern Africa Fund, an investment firm with capital guaranteed by the U.S. Overseas Private Investment Corporation, settled the long running dispute with the government of Cote d'Ivoire for USD six million and indemnification by both parties against future legal action related to the dispute.

¶3. (SBU) Background of the Case:

In 1997 the Texas firm Wireless Communications Technology (WCT) obtained the first Ivoirian cellular telephone operating license, created the Ivorian cell phone company Comstar, and contracted with Alexandre Galley's Belgian company, GA Holdings, to provide USD 70 million in start-up capital in exchange for a 51 percent stake in Comstar. Galley, is an Ivoirian businessman who is on the UN Liberian sanctions list and is an international fugitive reportedly living in Abidjan. When Galley failed to perform, WCT won nullification of the contract and Galley's ownership claim by a Belgian Court.

In January 2000, ignoring the Belgian judgment against him, Galley filed suit in an Ivorian court alleging that WCT did not have the legal right to sell Comstar to a consortium of Western Wireless International and the Modern Africa Fund because Galley held a 51 percent share, and therefore, at least 51 percent of the then-functioning cell phone company Cora belonged to him. In May 2001, the Ivorian Supreme Court ruled in Galley's favor and reinstated his claim to 51 percent ownership. After Galley won local judgment against Cora shareholders, he began a series of attempts to seize Cora's offices and financial assets. In June 2001, under the then-newly elected President Gbagbo's administration, the Ivorian government announced a new USD 54 million fee for the issuance of a permanent license to Cora.

In March, 2002, an out-of-court settlement between Galley and Cora shareholders was reached in which in exchange for payments of USD 750,000 in ten installments, Galley agreed to renounce his claim. When Galley's lawyer seized the tenth payment (as Galley had not paid him for his services) Galley claimed that the settlement agreement was null and void. The result was that even though Cora shareholders had technically satisfied the terms of the agreement, Galley's claim enabled the legal harassment in Cote d'Ivoire of Cora to continue.

On July 31, 2003, Cora and the Ivorian Government signed a Memorandum of Understanding, agreeing to work together to resolve the issue. Despite the MOU, Galley's harassment of Cora continued. On October 9, 2003, accompanied by 25 armed policemen, Galley invaded Cora's offices and forcibly evicted Cora's management and

staff. After this event, Cora shut down its network service to 33,000 customers.

Cora's shareholders maintained that the Ivorian government's failure to protect the investment amounts to an expropriation by the government of its USD 43 million investment in favor of an international fugitive, Mr. Galley. In December 2003, Cora shareholders formally filed a claim of expropriation against the Government of Cote d'Ivoire at the International Center for the Settlement of Investment Disputes (ICSID), seeking at least USD 54 million in damages.

The Ivorian Government set up an inter-ministerial committee to study the matter and pledged to enter into good faith negotiations with Cora's investors with a view toward finding a mutually acceptable final settlement. In 2004, the Ivorian government acknowledged that Cora shareholders had indeed satisfied the terms of the settlement.

In June 2005, the Ivorian government sold Cora's operating license to a new operator for $54 million, significantly reducing Cora's residual value.

In February 2006, a team led by the Minister of Telecommunications and New Technologies signed a draft settlement agreement with Cora's shareholders. The outlines of this agreement led to the May 2007 settlement of the case.

Throughout this process, the U.S. Ambassador, as well as a number of other U.S. officials, made direct appeals to Ivorian government authorities to protect Cora's assets and its cellular operating license and ensure fair, equitable treatment in the justice system. Cora shareholders have expressed their thanks to the U.S. government at the Departments of State, Commerce as well as the U.S. Trade Representative for assistance rendered in solving this problem.

HOOKS